

## AMENDMENTS

### In the Claims:

Please amend Claims 1, 2, 8, 9, 21, 30, 31, 37, and 38.

The currently pending and amended claims are below. Please amend the claims following wherein amendment is indicated in parenthesis, wherein the deleted matter is shown by strikethrough, and wherein the added matter is shown by underlining.

1. (Currently amended) An isolated excisable polynucleotide comprising, a desired trait polynucleotide and an irreversible recombinase polynucleotide operably linked to a somatic tissue-preferred promoter, all flanked by a pair of directly oriented corresponding recombination sites, wherein the recombinase activity is regulatable.
2. (Currently amended) The isolated polynucleotide of Claim 1, wherein the recombinase is selected from the group consisting of,  $\phi$ C31, ~~FLP~~, ~~CRE~~, ~~resolvase~~, SSV1-encoded integrase, ~~R~~, ~~Gin~~ and ~~transposase~~ coliphage P4 recombinase, coliphage lambda integrase, Listeria A118 phage recombinase, and actinophage R4 Sre recombinase.
3. (Original) The isolated polynucleotide of Claim 1, wherein the recombinase is  $\phi$ C31.
4. (Original) The isolated polynucleotide of Claim 3, wherein the  $\phi$ C31 recombinase polynucleotide comprises an intron.
5. (Original) The isolated polynucleotide of Claim 3, wherein the  $\phi$ C31 recombinase polynucleotide comprises a sequence as shown in SEQ ID NO:9 or SEQ ID NO:10.
6. (Original) The isolated polynucleotide of Claim 1, further comprising a selectable marker polynucleotide that is also flanked by the pair of recombination sites.
7. (Original) The isolated polynucleotide of 1, wherein the promoter is active in a plant cell, but inactive in a prokaryote.

8. (Currently amended) The isolated polynucleotide of Claim 1, wherein the somatic tissue-preferred promoter is developmentally regulated.
9. (Currently amended) The isolated polynucleotide of Claim 8, wherein the somatic tissue-preferred promoter is selected from the group consisting of a ~~seed-preferred~~, leaf-preferred, root-preferred, ~~pollen-preferred~~, ~~egg-preferred~~ promoter, ~~germination-preferred~~, meristem-preferred, and tuber-preferred, ~~ovule-preferred~~ and ~~anther-preferred~~.

Claims 10-20 (Withdrawn)

21. (Currently amended) A plant cell comprising the excisable polynucleotide of any one of Claims 1-~~9~~ 20.
22. (Original) A plant comprising the plant cell of Claim 21.
23. (Original) The plant of Claim 22, wherein the plant is a dicot.
24. (Original) The plant of Claim 22, wherein the plant is a monocot.
25. (Original) A seed produced by the plant of Claim 22.
26. (Withdrawn)
27. (Original) A tree comprising the excisable polynucleotide of Claim 1.
28. (Withdrawn)
29. (Withdrawn)
30. (Currently amended) A method of producing a transgenic plant containing an isolated excisable polynucleotide comprising,
  - a. introducing into a plant cell the isolated excisable polynucleotide, wherein the excisable polynucleotide comprises a desired trait polynucleotide and an irreversible recombinase polynucleotide operably linked to a somatic tissue-preferred promoter, all flanked by a pair of corresponding recombination sites in direct orientation, wherein the recombinase activity is regulatable and said promoter is operable in a plant; and
  - b. generating from the plant cell the transgenic plant.

31. (Currently amended) The method of Claim 30, wherein the recombinase is selected from the group consisting of,  $\phi$ C31, ~~FLP, CRE, resolvase,~~ SSV1-encoded integrase, ~~R, Gin and transposase~~ coliphage P4 recombinase, coliphage lambda integrase, *Listeria* A118 phage recombinase, and actinophage R4 Sre recombinase.
32. (Original) The method of Claim 30, wherein the recombinase is  $\phi$ C31.
33. (Original) The method of Claim 32, wherein the  $\phi$ C31 recombinase polynucleotide comprises an intron.
34. (Original) The method of Claim 32, wherein the  $\phi$ C31 recombinase polynucleotide comprises a sequence as shown in SEQ ID NO:9 or SEQ ID NO:10.
35. (Original) The method of Claim 30, wherein the excisable polynucleotide further comprises a selectable marker polynucleotide that is also flanked by the pair of recombination sites.
36. (Original) The method of Claim 30, wherein the promoter is active in a plant cell, but inactive in a prokaryote.
37. (Currently amended) The method of Claim 30, wherein the somatic tissue-preferred promoter is developmentally regulated.
38. (Currently amended) The method of Claim 37, wherein the somatic tissue-preferred promoter is selected from the group consisting of a ~~seed-preferred, leaf-preferred, root-preferred, pollen-preferred, egg-preferred promoter, germination-preferred, meristem-preferred, and tuber-preferred, ovule-preferred and anther-preferred.~~

Claims 39-60 (Withdrawn)